

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No.: 1:22-cr-00110 JLT SKO
Plaintiff,)
v.) ORDER DENYING DEFENDANT'S MOTION
OSCAR ARTURO SALOMON PEREZ,) FOR COMPASSIONATE RELEASE PURSUANT
Defendant.) TO 18 U.S.C. § 3582(c)(2)
) (Doc. 43)
)
)

Oscar Arturo Salomon Perez is a federal prisoner moving for compassionate release under 18 U.S.C. § 3582(c)(2) and the recent retroactive amendments to the U.S. Sentencing Guidelines (“Amendment 821”). (*See generally* Doc. 43.) The Government opposes the motion, contending that Defendant is ineligible for a sentence reduction because he was assigned 5 criminal history points and no status points. (Doc. 47.) Defendant did not file a reply. For the reasons set forth below, the motion is **DENIED**.

I. Analysis

On January 23, 2023, pursuant to a written plea agreement, Defendant pled guilty to distribution of Fentanyl and P-Fluorofentanyl, in violation of 21 U.S.C. § 841(a)(1). (Docs. 32, 33.) Following Defendant’s guilty plea, a presentence investigation report was prepared by the probation officer, which indicated a total offense level of 26 and a criminal history score of 5, based on Defendant’s prior criminal convictions. (*See* Doc. 35, PSR ¶¶ 34, 40-47.) No status points were

1 assigned. (See PSR ¶¶ 47-48.) According to the sentencing table at U.S.S.G. Chapter 5, Part A,
2 Defendant's criminal history score placed him in criminal history category III. (PSR ¶ 65.) Based on
3 Defendant's offense level and criminal history category, the advisory sentencing guideline range
4 called for a term of imprisonment of 78 to 97 months. (PSR ¶ 90.) However, the probation officer
5 noted Defendant's eligibility for "safety valve" relief under the First Step Act and advised the Court of
6 the option to consider a two-level downward variance. (PSR ¶¶ 112-114.)

7 The Court held a sentencing hearing on May 8, 2023 and imposed a below-guideline sentence
8 of 63 months followed by a 24-month term of supervised release. (Doc. 41; Doc. 42 at 2-3.) Defendant
9 now asks the Court to reduce his sentence under Part A and Part B, Subpart 1 of Amendment 821 to
10 the U.S. Sentencing Guidelines. (See Doc. 43.) Part A reduces the number of "status points" assigned
11 to certain defendants who committed their offense while under a criminal justice sentence, thereby
12 lowering the impact on the defendant's criminal history. See U.S.S.G. § 4A1.1. Part B provides a two-
13 offense-level reduction for certain "zero-point offenders" who present zero criminal history points and
14 satisfy the criteria listed in U.S.S.G. § 4C1.1(a). See U.S.S.G. § 4C1.1.

15 As indicated in the PSR, Defendant's prior criminal convictions resulted in a subtotal criminal
16 history score of 5. (PSR ¶ 63.) Because § 4C1.1 provides for a sentence reduction only for those with
17 no criminal history points, Defendant does not qualify for an offense level reduction under this
18 provision. Also, the Court did not assign any "status points" under the former U.S.S.G. § 4A1.1, (see
19 PSR ¶¶ 63-64), for being under a criminal justice sentence at the time of the offense. Thus, Defendant
20 is also not entitled to a status point adjustment. In sum, Amendment 821 does not impact Defendant's
21 sentencing guideline range, and therefore, he is not eligible for a sentence reduction under 18 U.S.C. §
22 3582(c)(2). The Court does not consider the § 3553(a) sentencing factors. *Dillon*, 560 U.S. at 827.
23 Defendant's motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(2), (Doc. 43), is
24 **DENIED.**

25
26 IT IS SO ORDERED.

27 Dated: September 3, 2024


UNITED STATES DISTRICT JUDGE